

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS RUSSELL BOARDMAN,

Petitioner,
v.

STATE OF WASHINGTON,

Respondent.

CASE NO. C19-5328 BHS

ORDER ADOPTING REPORT AND RECOMMENDATION

V.

STATE OF WASHINGTON,

Respondent.

This matter comes before the Court on the Report and Recommendation (“R&R”) Honorable David W. Christel, United States Magistrate Judge, Dkt. 17, and Ponter Thomas Russell Boardman’s (“Boardman”) objections to the R&R, Dkt. 18.

On July 2, 2019, Judge Creatura issued the R&R recommending that the Court dismiss the petition without prejudice for failure to exhaust. Dkt. 17. On July 15, 2019, Boardman filed objections. Dkt. 18. On August 7, 2019, Boardman filed a supplement. Dkt. 19.

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

In this case, Boardman contests the well-settled and binding precedent that he must exhaust his state court remedies before seeking relief in a federal habeas petition. Dkts. 18, 19. Boardman’s argument do not persuade the Court to carve out an exception to “one of the pillars of federal habeas corpus jurisprudence.” *Calderon v. U.S. Dist. Court for N. Dist. of California*, 134 F.3d 981, 984 (9th Cir. 1998). Therefore, the Court having considered the R&R, Boardman’s objections, and the remaining record, does hereby find and order as follows:

- (1) The R&R is **ADOPTED**;
 - (2) Boardman's petition is **DISMISSED without prejudice**;
 - (3) A Certificate of Appealability is **DENIED**; and
 - (4) The Clerk shall enter a **JUDGMENT** and close the case.

Dated this 5th day of September, 2019.


BENJAMIN H. SETTLE
United States District Judge